



This matter arises from the Camden County Board of Social Services' (CCBSS) denial of benefits because Petitioner's resources exceeded the limit for Medicaid eligibility. When determining the resources of a couple, where one resides in the community, the community spouse's share is based on the couple's countable resources on the first day of the month of the current period of institutionalization..." N.J.A.C. 10:71-4.8(a)1. All resources are included unless subject to exclusion under N.J.A.C. 10:71-4.4. Petitioner applied for Medicaid in July 2018. The application was filed by Petitioner's Designated Authorized Representative (DAR) was Robin Schonewolf, an employee of Voorhees Care and Rehabilitation Center, the facility where Petitioner resided. At the time of Petitioner's institutionalization, the couple's combined reported resources were \$55,260. ID at 4.

Medicaid regulations use the combined resources both to establish the community spouse's resource allowance and to determine eligibility:

- (a) In the determination of resource eligibility for an individual requiring long-term care, the county welfare agency shall establish the **combined** countable resources of a couple as of the first period of continuous institutionalization beginning on or after September 30, 1989. This determination shall be made upon request for a resource assessment in accordance with N.J.A.C. 10:71-4.9 or at the time of application for Medicaid benefits. The total countable resources of the couple shall include all resources owned by either member of the couple individually or together. The county welfare agency shall establish a share of the resources to be attributed to the community spouse in accordance with this section. (No community spouse's share of resources may be established if the institutionalized individual's current continuous period of institutionalization began at any time before September 30, 1989.)
1. The community spouse's share of the couple's combined countable resources is based on the couple's countable resources as of the first moment of the first day of the month of the current period of institutionalization beginning on or after September 30, 1989 and shall not exceed \$119,220, as indexed annually in accordance with 42 U.S.C. § 1396r-5(g) and published as a notice in the New Jersey Register, and unless authorized in (a)4 or 5 below. The community spouse's share of the couple's resources shall be the greater of:
    - i. \$ 23,844, as indexed annually in accordance with 42 U.S.C. § 1396r-5(g) and published as a notice in the New Jersey Register; or
    - ii. One half of the couple's combined countable resources.

2. In determining the resource eligibility of the institutionalized spouse, the **community spouse's share of the resources is subtracted from couple's total combined resources as of the first moment of the first day of the month of application for Medicaid.** If the remaining resources are less than or equal to \$ 2,000, the institutionalized spouse is resource eligible. If the remaining resources exceed \$ 2,000, eligibility may not be established.

N.J.A.C. 10:71-4.8.

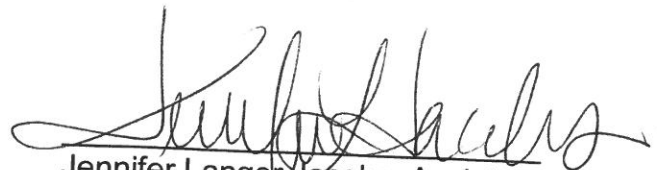
This method was affirmed in A.K. v. Division of Medical Assistance and Health Services, 350 N.J. Super. 175 (App. Div. 2002). The initial snapshot of the couple's resources at the first month of institutionalization is done to preserve funds prior to paying privately for care. The snapshot sets the amount the community spouse can retain regardless of when the Medicaid application is filed. Fluctuations in the value of the couple's assets do not change the protected share. The spousal assessment sheet states that the couple must spend down to \$29,630.26 prior to establishing Medicaid. R-4.

The ALJ concurred that Petitioner failed to spend down assets so as to qualify for Medicaid. Furthermore, there is no evidence that failure to qualify for Medicaid will cause a hardship to Petitioner or his spouse. Thus, for the reasons set forth below, I hereby ADOPT the Initial Decision.

THEREFORE, it is on this <sup>7<sup>th</sup></sup> day of MARCH 2020,

ORDERED:

That the Initial Decision is hereby ADOPTED.



Jennifer Langer Jacobs, Assistant Commissioner  
Division of Medical Assistance  
and Health Services